

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 809 (Senators Pipkin and Colburn)
Education, Health, and Environmental Affairs

Natural Resources - Designation of Oyster Sanctuaries - Prohibition

This emergency bill prohibits the Department of Natural Resources (DNR) from designating a new oyster sanctuary in State waters before October 1, 2011.

Fiscal Summary

State Effect: The bill may limit DNR's ability to expend and secure federal oyster restoration funding in FY 2010 through 2012.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Oyster sanctuaries have been established via statute and regulation. Statutory provisions designate several oyster sanctuaries – protected oyster restoration areas – in waters of the State that are contiguous to Calvert, Dorchester, Somerset, and St. Mary's counties. Current regulations designate numerous oyster sanctuaries throughout the Chesapeake Bay, including areas of the Corsica, Choptank, Nanticoke, and Patuxent rivers.

DNR is generally authorized to take measures which seem best calculated to increase the productivity or utility of oyster resources in the State. Current regulations designating oyster sanctuaries identify this broad statutory authority as the basis for such designations.

Background: At its peak, the bay's oyster population acted as a natural filter, removing 133 million pounds of nitrogen annually. Affected by diseases, habitat loss, and harvest pressures, the oyster stock has significantly declined. Today, the oyster population has dropped to less than 1% of its original population, and remaining oysters remove only about 250,000 pounds of nitrogen from the bay each year.

In December 2009, Governor Martin O'Malley proposed a new management and restoration plan for oysters and the Maryland oyster industry. The proposal seeks to increase Maryland's network of oyster sanctuaries from 9% to 24% of the bay's remaining productive oyster bar habitat, expand oyster aquaculture leasing opportunities, and maintain 167,720 acres of natural oyster habitat for a public oyster fishery. During January 2010, DNR held a series of open houses to solicit public comments on the oyster plan's proposed implementation regulations. Comments and suggestions were collected and are currently being reviewed.

The expansion of Maryland's oyster sanctuary network was identified as the preferred strategy for restoring the bay's oyster resource in a six-year regional Programmatic Environmental Impact Statement on oyster restoration alternatives and by the Maryland Oyster Advisory Commission. In 2009, DNR created three new oyster sanctuaries that more than doubled the State's total area of protected bottom. Maryland's current sanctuary network is composed of 2,581 acres.

DNR advises that no new scientific or stakeholder information is expected prior to October 1, 2011, that would result in a major modification to the proposed sanctuary designation efforts.

State Fiscal Effect: DNR collaborates on oyster restoration with federal partners, including the U.S. National Oceanic and Atmospheric Administration (NOAA) and the U.S. Army Corps of Engineers. In fiscal 2010, DNR has a \$1.0 million grant from the Army Corps and a \$2.6 million grant from NOAA for oyster restoration work. DNR is limited to using these funds in oyster sanctuaries. In addition, DNR's current oyster restoration efforts with federal partners are predicated upon expanding the State's oyster sanctuary network. DNR advises that being limited to the current sanctuaries will not provide sufficient restoration opportunities for continued federal funding support. Thus, the bill limits DNR's ability to expend current federal oyster restoration funding in fiscal 2010 through 2012. Also, the bill limits DNR's ability to secure future federal oyster restoration funding in fiscal 2011 and 2012, until the bill's prohibition no longer applies.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources, Department of Legislative Services

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